

ASSEMBLY BILL

No. 726

Introduced by Assembly Member Morrell
(Coauthor: Senator Gaines)

February 17, 2011

An act to amend Section 17085 of, and to add Section 17131.7 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 726, as introduced, Morrell. Personal income taxes: exclusions: rollovers.

The Personal Income Tax Law provides various exclusions from gross income in computing tax liability and, in modified conformity to federal law, imposes a penalty tax upon early distributions from tax-deferred retirement accounts, as provided.

This bill would provide an exclusion from gross income for moneys removed from a specified savings plan and deposited directly into a health savings account, as provided, and would waive that penalty tax for early distribution.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17085 of the Revenue and Taxation Code
2 is amended to read:

1 17085. Section 72 of the Internal Revenue Code, relating to
2 annuities; certain proceeds of endowment and life insurance
3 contracts, is modified as follows:

4 (a) The amendments and transitional rules made by Public Law
5 99-514 shall be applicable to this part for the same transactions
6 and the same years as they are applicable for federal purposes,
7 except that the repeal of Section 72(d) of the Internal Revenue
8 Code, relating to repeal of special rule for employees' annuities,
9 shall apply only to the following:

10 (1) Any individual whose annuity starting date is after December
11 31, 1986.

12 (2) At the election of the taxpayer, any individual whose annuity
13 starting date is after July 1, 1986, and before January 1, 1987.

14 (b) The amount of a distribution from an individual retirement
15 account or annuity or employee trust or employee annuity that is
16 includable in gross income for federal purposes shall be reduced
17 for purposes of this part by the lesser of either of the following:

18 (1) An amount equal to the amount includable in federal gross
19 income for the taxable year.

20 (2) An amount equal to the basis in the account or annuity
21 allowed by Section 17507 (relating to individual retirement
22 accounts and simplified employee pensions), the increased basis
23 allowed by Sections 17504 and 17506 (relating to plans of
24 self-employed individuals), the increased basis allowed by Section
25 17501, or the increased basis allowed by Section 17551 that is
26 remaining after adjustment for reductions in gross income under
27 this provision in prior taxable years.

28 (c) (1) Except as provided in ~~paragraph~~ *paragraphs (2) and*
29 (3), the amount of the penalty imposed under this part shall be
30 computed in accordance with Sections 72(m), (q), (t), and (v) of
31 the Internal Revenue Code, as applicable for federal income tax
32 purposes for the same taxable year, using a rate of 2 ½ percent, in
33 lieu of the rate provided in those sections.

34 (2) In the case where Section 72(t)(6) of the Internal Revenue
35 Code, relating to special rules for simple retirement accounts, as
36 applicable for federal income tax purposes for the same taxable
37 year, applies, the rate in paragraph (1) shall be 6 percent in lieu of
38 the 2 ½ percent rate specified therein.

1 (3) *In the case of payments or distribution that are excluded*
2 *from gross income pursuant to Section 17131.7, the penalty*
3 *imposed by this subdivision shall not apply.*

4 (d) Section 72(f)(2) of the Internal Revenue Code shall be
5 applicable without applying the exceptions which immediately
6 follow that paragraph.

7 (e) The amendments made by Section 844 of the Pension
8 Protection Act of 2006 (Public Law 109-280) to Section 72(e) of
9 the Internal Revenue Code, shall not apply.

10 SEC. 2. Section 17131.7 is added to the Revenue and Taxation
11 Code, to read:

12 17131.7. Gross income shall not include moneys paid or
13 distributed out of a 401(k) plan to an individual if the entire amount
14 received is paid into a health savings account not later than the
15 60th day after the day on which he or she receives the payment or
16 distribution.

17 SEC. 3. This act provides for a tax levy within the meaning of
18 Article IV of the Constitution and shall go into immediate effect.